

TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman
Deborah Taylor Tate, Director
Pat Miller, Director
Ron Jones, Director



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460 James Robertson Parkway
Nashville, Tennessee 37243-0505

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MEMORANDUM

TN REGULATORY AUTHORITY
DOCKET ROOM

TO: Chairman Sara Kyle
Director Pat Miller
Director Ron Jones

FROM: Eddie Roberson, Chief, Consumer Services Division
Ed Mimms, Manager, Do Not Call Program *Ed Mimms*
Lynn Questell, Counsel *LQ*

DATE: December 5, 2002

SUBJECT: Settlement with C&R Associates (Docket No. 02-00324)

Attached is a Settlement Agreement between the Consumer Services Division ("Staff") and C&R Associates for violations of the Tennessee Do-Not-Call Telephone Sales Solicitation statute, TCA §65-4-401 *et seq.* C&R Associates renewed its registration as a solicitor with the Tennessee Regulatory Authority ("Authority") on September 25, 2002.

Two (2) separate complaints have been registered against C&R Associates with the Authority alleging that the company violated TCA §65-4-401 *et seq.* During the time the solicitation calls were made C&R Associates was not registered with the Authority as a solicitor. This Settlement requires C&R Associates to make a payment of \$4,800 to the Authority along with assurances from C&R Associates that it will fully comply with applicable state law. The terms of this Settlement require C&R Associates to pay the \$4,800 to the Authority over the next seven (7) months pending Authority ratification of the Settlement. The first payment of \$2,000 is due by December 30, 2002. A representative for C&R Associates will be available telephonically at the December 16, 2002 Conference to answer any question you may have.

Considering all relevant facts, the Staff believes the terms of this Settlement are fair and reasonable and should have the result of no additional telemarketing complaints being filed against C&R Associates. Staff submits the attached Settlement Agreement for your deliberation at the December 16, 2002 Authority Conference.

cc: Director Deborah Taylor Tate
Richard Collier, General Counsel
Chris Lacy, Owner of C&R Associates

BEFORE THE TENNESSEE REGULATORY AUTHORITY**NASHVILLE, TENNESSEE**

IN RE:

ALLEGED VIOLATIONS OF TENN.
CODE ANN. §65-4-401 *et seq.*, DO-NOT-
CALL SALES SOLICITATION LAW,
AND RULES OF TENNESSEE
REGULATORY AUTHORITY, CHAPTER
1220-4-11, BY:

CHRISTOPHER LACY AND RENEE
LACY, D/B/A C&R ASSOCIATES

DOCKET NO. 02-00324

DO-NOT-CALL T02-00018
PROGRAM T02-00130

FILE NUMBERS

SETTLEMENT AGREEMENT

This Settlement Agreement has been entered into between the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA") and Christopher Lacy and Renee Lacy, d/b/a C&R Associates ("C&R Associates" or the "Company"). This Settlement Agreement pertains to two (2) complaints received by the CSD alleging that C&R Associates violated the Tennessee Do-Not-Call Telephone Sales Solicitation law and its concomitant regulations, TENN. CODE ANN. § 65-4-401, *et seq.*, and TENN. COMP. R. & REGS. 1220-4-11.07. This Settlement Agreement is subject to the approval of the Directors of the TRA.

TENN. CODE ANN. § 65-4-404, and TENN. COMP. R. & REGS. 1220-4-11.07(1), prohibit persons from knowingly making or causing to be made telephone sales solicitation calls to residential subscribers in this state who have given timely and proper notice to the

TRA of their objection to receiving telephone solicitations. Tenn. Code Ann. § 65-4-405(d) requires that persons or entities desiring to make telephone solicitations to residential subscribers shall pay an annual registration fee and obtain the Do-Not-Call Register prior to conducting such telephone solicitations.

The CSD's investigation in this docket commenced after it received a complaint on January 10, 2002, alleging that the complainant, a person properly listed on the Do-Not-Call register, received a telephone solicitation from C&R Associates on December 27, 2001. The CSD provided C&R Associates with notice of this complaint on January 17, 2002. The CSD received a second complaint on March 8, 2002, alleging that a person acting on behalf of C&R Associates made an unlawful telephone solicitation to a person properly listed on the Do-Not-Call register on February 12, 2002. The CSD provided C&R Associates with notice of this complaint on March 11, 2002.

TENN. CODE ANN. § 65-4-405(f) authorizes the TRA to assess penalties for violations of the Tennessee Do-Not-Call statutes, including the issuance of a cease and desist order and the imposition of a civil penalty of up to a maximum of two thousand dollars (\$2,000) for each knowing violation. The maximum fine faced by C&R Associates in this proceeding is six thousand dollars (\$6,000), arising from the two (2) telephone solicitations and the Company's failure to register in the Do-Not-Call Program.

In negotiating this Settlement Agreement, CSD relied upon the factors stated in TENN. CODE ANN. § 65-4-116(b), including the Company's size, financial status, good faith, and the gravity of the violation. C&R Associates is located in a Dickson, Tennessee, and has two employees. It is a distributor of Kirby Vacuum Cleaners. After receiving

notice of the complaints, C&R Associates contacted the CSD and expressed an interest in resolving this matter. In addition, C&R Associates registered with the TRA as a telephone solicitor on March 22, 2002, the day after meeting with members of the CSD to negotiate this agreement. CSD has received no additional complaints from Tennessee consumers since C&R Associates received notice of the violations. C&R Associates renewed its registration in the Do-Not-Call program on September 25, 2002.

In an effort to resolve these complaints, represented by the file numbers above, CSD and C&R Associates agree to settle this matter based upon the following acknowledgements and terms, subject to approval by the Directors of the TRA:

1. C&R Associates admits that the two (2) complaints against it are true and valid complaints and that it acted in violation of TENN. CODE ANN. §65-4-404 and TENN. COMP. R. & REGS. 1220-4-11.07(1).
2. Since receiving notice of the complaints that are the subject of this Agreement, C&R Associates has come into compliance with TENN. CODE ANN. § 65-4-404 and TENN. COMP. R. & REGS. 1220-4-11.07(1). C&R Associates contacted CSD and expressed an interest in resolving this matter. In addition, C&R Associates registered with the TRA as a telephone solicitor on March 22, 2002. C&R Associates renewed its registration in the Do-Not-Call program on September 25, 2002.
3. C&R Associates agrees to pay four thousand eight hundred dollars (\$4,800.00) in settlement of these complaints, and agrees to remit the amount of two thousand dollars (\$2,000.00) to the Office of the Chairman of the TRA no later than December 30,

2002.¹ The remaining seven (7) installments of four hundred dollars (\$400.00) each shall be remitted to the TRA no later than the first business day of each month for the next seven (7) consecutive months. Upon payment of the amount of four thousand eight hundred dollars (\$4,800.00) in compliance with the terms and conditions of this Settlement Agreement, C&R Associates is excused from further proceedings in this matter.

4. C&R Associates agrees to comply with all provisions of the Tennessee Do-Not-Call Telephone Sales Solicitation law and regulations.
5. C&R Associates agrees that a company representative will participate telephonically in the Authority Conference during which the Directors consider this Settlement Agreement.
6. In the event that C&R Associates fails to comply with the terms and conditions of this Settlement Agreement, the Authority reserves the right to re-open this docket. C&R Associates shall pay any and all costs incurred in enforcing the Settlement Agreement.
7. If any clause, provision or section of this Settlement Agreement shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause provision or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

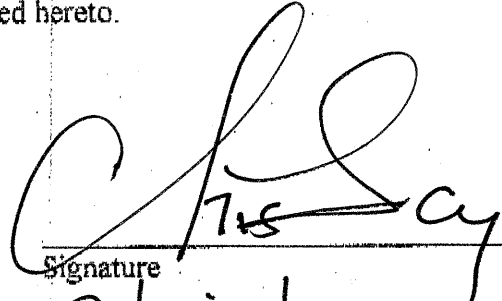
¹ The payment may be made in the form of a check, payable to the Tennessee Regulatory Authority, referencing TRA Docket No. 02-00324.

8. This Settlement Agreement represents the entire agreement between the parties, and there are no representation, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Settlement Agreement which are not fully expressed herein or attached hereto.



Eddie Roberson
Chief, Consumer Services Division
Tennessee Regulatory Authority

12-3-02
Date



Signature

Chris Lacy
Print Name

Owner
Print Title

10-1-02
Date